

# PATENT APPLICATION FEE DETERMINATION RECORD

Effective January 1, 2003

Application or Docket Number

10/670.594

## CLAIMS AS FILED - PART I

(Column 1) (Column 2)

TOTAL CLAIMS	18	
FOR	NUMBER FILED	NUMBER EXTRA
TOTAL CHARGEABLE CLAIMS	16 minus 20 =	* 0
INDEPENDENT CLAIMS	3 minus 3 =	* 0
MULTIPLE DEPENDENT CLAIM PRESENT <input type="checkbox"/>		

\* If the difference in column 1 is less than zero, enter "0" in column 2

## CLAIMS AS AMENDED - PART II

(Column 1) (Column 2) (Column 3)

AMENDMENT A	CLAIMS REMAINING AFTER AMENDMENT		HIGHEST NUMBER PREVIOUSLY PAID FOR	PRESENT EXTRA
	Total	* 19	Minus	** 20 = -
	Independent	* 4	Minus	*** 3 = 1
	FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM <input type="checkbox"/>			

(Column 1) (Column 2) (Column 3)

AMENDMENT B	CLAIMS REMAINING AFTER AMENDMENT		HIGHEST NUMBER PREVIOUSLY PAID FOR	PRESENT EXTRA
	Total	*	Minus	** =
	Independent	*	Minus	*** =
	FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM <input type="checkbox"/>			

(Column 1) (Column 2) (Column 3)

AMENDMENT C	CLAIMS REMAINING AFTER AMENDMENT		HIGHEST NUMBER PREVIOUSLY PAID FOR	PRESENT EXTRA
	Total	*	Minus	** =
	Independent	*	Minus	*** =
	FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM <input type="checkbox"/>			

\* If the entry in column 1 is less than the entry in column 2, write "0" in column 3.

\*\* If the "Highest Number Previously Paid For" IN THIS SPACE is less than 20, enter "20."

\*\*\* If the "Highest Number Previously Paid For" IN THIS SPACE is less than 3, enter "3."

The "Highest Number Previously Paid For" (Total or Independent) is the highest number found in the appropriate box in column 1.

SMALL ENTITY TYPE ☐ OR

OTHER THAN SMALL ENTITY

RATE	FEE
BASIC FEE	375.00
X\$ 9=	
X42=	
+140=	
TOTAL	

RATE	FEE
BASIC FEE	750.00
X\$18=	
X84=	
+280=	
TOTAL	7.50

SMALL ENTITY OR

OTHER THAN SMALL ENTITY

RATE	ADDITIONAL FEE
X\$ 9=	
X42=	
+140=	
TOTAL ADDIT. FEE	

RATE	ADDITIONAL FEE
X\$18=	
X84=	88.00
+280=	
TOTAL ADDIT. FEE	88.00

RATE	ADDITIONAL FEE
X\$ 9=	
X42=	
+140=	
TOTAL ADDIT. FEE	

RATE	ADDITIONAL FEE
X\$18=	
X84=	
+280=	
TOTAL ADDIT. FEE	

RATE	ADDITIONAL FEE
X\$ 9=	
X42=	
+140=	
TOTAL ADDIT. FEE	

RATE	ADDITIONAL FEE
X\$18=	
X84=	
+280=	
TOTAL ADDIT. FEE	

NOV 16 2004

60,130-1407; 02mm0185

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Hayford

Serial No.: 10/670,594

Filed: 9/25/03

Group Art Unit: 3683

Examiner: Butler

For: BRAKE SLACK ADJUSTER

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

1X88-#88

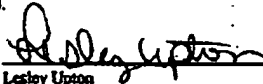
AMENDMENT

Dear Sir:

This is in response to the Office Action mailed August 16, 2004. Please amend the application as follows.

CERTIFICATE OF TRANSMISSION UNDER 37 CFR 1.8

I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office, fax number (703) 872-9306, on November 16, 2004.

  
Lesley Upton

60,130-1407; 02mra0185

the basis of the suitability for the intended use as a matter of obvious design choice." The Examiner relies upon *In re Leshin* for support of this proposition. However, the actuator in the claimed environment is not a part one would typically believe should be made of plastic. The claim is not obvious.

Moreover, the Examiner has not met the burden of establishing a prima facie case of obviousness. The Examiner cannot sidestep this burden and must provide a suggestion or motivation to modify the base reference, Lavelly (see, e.g., MPEP 2143.01 and MPEP 2143.03).

Regarding *In re Leshin*, that case does not stand for the proposition that the use of a known material is automatically obvious. Apparently, Leshin was attempting to claim a plastic container, however, the use of plastic for the claimed container was shown in a prior art Anderson reference. The court held that the plastic Leshin was attempting to claim would have been obvious since one of ordinary skill, being apprised of the purpose, would select that plastic since plastic was already used for the claimed component.

Applicant's claim 2 is distinguishable from *In re Leshin*. Here it is not known to use plastic for the actuator. Furthermore, the claimed material is not a species of known material already used for the claimed component. As a result, there is no motivation to one of ordinary skill to modify Lavelly to use plastic.

New claim 19 requires a plastic biasing member that is provided by the actuator, which is supported by paragraph 37 of the Specification.

Applicant respectfully solicits allowance of these claims. The Commissioner is authorized to charge Deposit Account No. 50-1482 in the name of Carlson, Gaskey & Olds for any additional fees or credit the account for any overpayment.

Respectfully submitted,

  
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Dated: November 16, 2004